

PENSION RIGHTS CENTER

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Dear Conferees:

As you join with your fellow Conferees to reconcile the highly complex pension reform bills (H.R. 2830 and S. 1783), we urge you to take into account the concerns of millions of workers and retirees – who are counting on their promised pensions to make it through their retirement years.

To advance employees' retirement security, we urge you to **support** provisions that would: protect older employees in cash balance conversions by providing critically-important transition benefits; provide important spousal protections that will particularly help older women; and encourage unbiased investment advice for employees.

We urge you to **oppose** provisions that would undermine employee rights, including those that would: weaken protections against conflicts of interest in plan investments; allow multiemployer plans to eliminate the special early retirement benefits that tens of thousands of construction workers, truck drivers and other hard-working Americans have legally earned; and permit companies to deplete essential pension plan cushions by increasing the amount of "surplus assets" that can be transferred to retiree health plans – a move that would undermine the broader aims of the bill to improve plan funding. Our concerns about these provisions are detailed below.

In addition, the Pension Rights Center believes that it is critical that Congress do everything possible to preserve, maintain, and improve the defined benefit system in order to protect long-standing pension promises to workers. To that end, plans should be sufficiently funded to ensure that employees' pensions are paid in full when they retire. However, we are concerned that some of the funding reforms, in their narrow aim to decrease what may only be temporary funding shortfalls, may penalize the very companies that are trying to do right by their employees. Also, employees in underfunded plans should not be penalized with benefit freezes based solely on an arbitrary funding level of the plan if their companies are financially capable of meeting their funding obligations.

Furthermore, we question the wisdom of prematurely making permanent the increased contribution limits for retirement savings plans without evaluation of their effectiveness. All of the evidence to date shows that the increased limits disproportionately benefit higher income employees who do not need tax breaks to encourage them to save. These provisions are estimated to cost all taxpayers \$20 billion in lost revenue over the next ten years. If Congress wants to encourage voluntary savings by lower and moderate-income workers, consideration should be given to making the Savers Credit refundable and adjusted for inflation.

Specifically, we urge you to:

SUPPORT THE CASH BALANCE PROVISIONS IN S. 1783. In recent years the Pension Rights Center has heard from thousands of individuals who have been devastated by cash balance conversions. These older employees – from such companies as AT&T, Duke Energy, Sempra, CIGNA, Bank of America and IBM – had been told that if they worked hard and remained loyal to their companies, they would be rewarded with generous pensions typically based on all their years of work and final earnings (often payable before age 65 in the form of subsidized early retirement benefits). When companies switched to cash balance plans, these older employees – who relied on the promises made to them – found their benefits slashed by as much as 50 percent, and their retirement dreams reduced to ashes.

The Senate bill's cash balance provisions, patterned after Treasury Department proposals, strike a fair balance between the interests of employees and employers. In exchange for the prospective legalization of cash balance plans for employers, the bill provides modest transition benefits for older employees – and eliminates the most egregious forms of wearaway. We urge you to preserve the Senate protections. We have heard that there may be a move to add a provision for retroactive legalization in conference. If this occurs, we urge you to OPPOSE such a provision. Retroactive legalization of cash balance plans would undermine the rights of employees who now have pending lawsuits. In addition, legal experts note that making the bill retroactive could be unconstitutional, leading to continuing legal challenges far into the future.

SUPPORT THE SPOUSAL PROTECTION PROVISIONS IN S. 1783. The Center strongly supports the four provisions in the Senate bill designed to end certain inequities in the laws affecting spousal benefits. These four provisions – aimed at closing loopholes affecting widows and divorced women in private pension laws and the Railroad Retirement System -- are non-controversial and would impose little or no additional costs.

SUPPORT THE INVESTMENT ADVICE PROVISIONS IN S. 1783. As more and more individuals are asked to save for themselves in 401(k) plans, it is more important than ever that people receive conflict-free investment advice. The provisions in S. 1783 would achieve this goal by encouraging employers to provide quality, independent investment advice. We urge you to reject the House provisions that would permit financial institutions to provide investment advice on their own products – which would be a violation of long-standing fiduciary rules banning such blatant conflicts of interest.

OPPOSE LOWERING THE FUNDING CUSHION FOR ASSET TRANSFERS IN S. 1783. The Pension Rights Center has long opposed using pension assets for any purpose other than providing pensions for workers and retirees. We are strongly opposed to lowering the cushion of “surplus” assets when companies transfer money from pension plans to pay for retiree health insurance. Allowing companies to siphon money in good times means that plans will be more likely to become underfunded if they fall on hard times.

OPPOSE THE “RED ZONE” BENEFIT CUTBACK PROVISIONS IN H.R.

2830. Under current law, a pension plan cannot change the rules to eliminate the subsidized early retirement pension benefits already earned by workers. But the House bill would do just that. The so-called “Red Zone” cutback provisions would allow certain underfunded multiemployer plans to eliminate subsidized early retirement benefits that have been earned by older, longer-service employees. The fact is these benefits have already been earned – and employees have made concessions and have given up wages with the expectation of receiving these benefits. This provision would affect hundreds of thousands truck-drivers, ironworkers, laborers, pipe fitters, dockworkers and hospital workers. The bill includes other provisions that should amply shore up underfunded multiemployer plans. There is no justification for the bill’s proposal to permit the elimination of legally-earned benefits.

OPPOSE PROVISIONS THAT WEAKEN FIDUCIARY PROTECTIONS IN H.R.

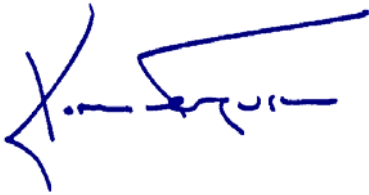
2830. When Congress passed ERISA, policymakers recognized the temptation for plan trustees and service providers to misuse pension assets, and included strict fiduciary rules to ensure that pension assets are invested exclusively for the benefit of workers and retirees – not to enrich investment managers or others with close connections with plans. However, Section 305 of the House bill would gut these critical protections by allowing hedge fund managers who invest significant amounts of pension plan assets to be exempted from the law's fiduciary requirements, and by eliminating current procedures that guard against conflicts of interest between plans and their service providers.

Finally, we urge you to amend Section 307 of H.R. 2830 to allow employees as well as plan fiduciaries to seek money damages. Participants should have the same remedies available to them as plans do, but the current provision will give plans the ability to collect monetary damages from participants without allowing participants to collect damages from plans. Without such protections, employees are too often left without any remedies when their plans and trustees act unlawfully.

We thank you for taking our views into consideration and urge you to stand up for employee and retiree rights.

Sincerely,

Karen W. Ferguson
Director



Karen D. Friedman
Policy Director

